

Exhibit A

1 Sano - rough draft

2 THE VIDEOGRAPHER: Good morning,
3 counsel. My name is Phil Rizzuti. I am a
4 legal videographer in association with
5 TSG Reporting, Inc.

6 Due to the severity of the COVID-19
7 and following the practice of social
8 distancing, I will not be in the same room
9 with the witness. Instead, I will record
10 this videotaped deposition remotely.

11 The reporter, Jeffrey Benz, also will
12 not be in the same room and will swear the
13 witness remotely.

14 Do all parties stipulate to the
15 validity of this video recording, and
16 remote swearing, and that it will be
17 admissible in the courtroom as if it had
18 been taken following Rule 30 of the Federal
19 Rules of Civil Procedure and the state's
20 rules where this case is pending?

21 MS. METZINGER: Yes for the Quincy
22 corporate defendants.

23 MR. GLENNON: Yes for the FTC.

24 THE VIDEOGRAPHER: Thank you.

25 MS. MATUSCHAK: Yes for the New York

<p>1 Sano - rough draft 2 State Attorney General's office. 3 THE VIDEOGRAPHER: Thank you. 4 This is the start of media labeled 5 Number 1 of the video-recorded deposition 6 of Dr. Mary Sano, in the matter of the 7 Federal Trade Commission and the People of 8 the State of New York, by Letitia James, 9 Attorney General of the State of New York, 10 versus Quincy Bioscience Holding Company, 11 Inc., a corporation, et al., in the United 12 States District Court for the Southern 13 District of New York, 14 Case Number 117 CV 00124 LLS. 15 This deposition is being held on 16 October 22, 2021, at approximately 17 10:01 a.m. 18 My name is Phil Rizzuti. I am the 19 legal video specialist from TSG Reporting, 20 Inc. The court reporter is Jeffrey Benz in 21 association with TSG Reporting. Counsel 22 please introduce yourself. 23 MS. METZINGER: Good morning. Jaclyn 24 Metzinger from Kelley Drye & Warren for the 25 Quincy corporate defendants. And I have</p>	<p>Page 2</p> <p>1 Sano - rough draft 2 with me today my colleagues, Geoffrey 3 Castello, Glenn Graham, and Lauren 4 Margolies. 5 MR. DE LEEUW: Michael de Leeuw on 6 behalf of Mark Underwood. I have with me 7 today Tamar Wise. 8 MR. GLENNON: This is Edward Glennon 9 for the Federal Trade Commission. Also 10 participating for the FTC are attorneys 11 Andrew Warren and Annette Soberats and 12 investigator Will Ducklow. 13 MS. MATUSCHAK: This is Kate 14 Matuschak, and I'm here for the New York 15 State Attorney General's office. 16 THE VIDEOGRAPHER: Thank you. 17 Will the court reporter please swear 18 in the witness. 19 DR. MARY SANO, 20 called as a witness, having been first 21 duly sworn by Jeffrey Benz, a Notary 22 Public within and for the State of New 23 York, was examined and testified as 24 follows: 25 EXAMINATION BY MS. METZINGER:</p>
<p>Page 4</p> <p>1 Sano - rough draft 2 Q. Good morning, Dr. Sano. We met 3 briefly before we got on the record, but again, 4 my name is Jaclyn Metzinger. And I represent 5 the Quincy corporate defendants -- excuse me -- 6 in this matter. 7 Have you been deposed before, 8 Dr. Sano? 9 A. I have. 10 Q. How many times have you been deposed? 11 A. I'm not sure. It's been many years. 12 Q. Would you say less than five times? 13 A. Maybe between five and ten times. 14 Q. And have those depositions been given 15 in your professional capacity or personal 16 capacity? 17 A. They have. 18 Q. Were you designated as an expert 19 witness in any of the matters in which you gave 20 a deposition? 21 A. I was. 22 Q. In all of them? 23 A. Yes. 24 Q. And do you recall any of the names of 25 the cases in which you gave your deposition?</p>	<p>Page 5</p> <p>1 Sano - rough draft 2 A. I do not. 3 Q. Do you recall whether you were 4 retained as an expert on behalf of the plaintiff 5 or the defendant in those cases? 6 A. I had -- on both. 7 Q. Have you ever been retained as an 8 expert witness by the Federal Trade Commission 9 in a prior matter? 10 A. I have not. 11 Q. Have you ever been retained as an 12 expert witness by the New York Attorney 13 General's office? 14 A. I have not. 15 Q. Have you ever been retained as an 16 expert witness by any other governmental agency? 17 A. I think I have. By the U.S. Attorney 18 General. 19 Q. Do you recall what that matter 20 involved? 21 A. I don't recall. 22 Q. Have any of the matters in which 23 you've been retained as an expert witness 24 involved a dietary supplement product? 25 A. They have not.</p>

<p style="text-align: right;">Page 34</p> <p>1 Sano - rough draft</p> <p>2 "competent and reliable scientific evidence,"</p> <p>3 has been incorporated into any state or federal</p> <p>4 law?</p> <p>5 MR. GLENNON: Objection. Outside the</p> <p>6 scope of the witness's expert report in</p> <p>7 this matter.</p> <p>8 You can answer, Dr. Sano.</p> <p>9 A. Okay. Yeah. I -- I don't know.</p> <p>10 I've not looked at the law so...</p> <p>11 Q. Okay. And do you agree that Prevagen</p> <p>12 is a dietary supplement?</p> <p>13 A. I don't know how it's -- what -- how</p> <p>14 it identifies itself. I don't know that it's</p> <p>15 specific dietary supplement medical food, et</p> <p>16 cetera.</p> <p>17 Q. It's not a drug, though, correct?</p> <p>18 A. I don't know that it markets itself as</p> <p>19 a drug or that it is a drug.</p> <p>20 Q. Are you familiar with the document</p> <p>21 titled "Dietary Supplements and Advertising</p> <p>22 Guide for Industry"?</p> <p>23 A. I am not.</p> <p>24 Q. You've never reviewed the -- I'm going</p> <p>25 to refer to this document as the FTC guidance.</p>	<p style="text-align: right;">Page 35</p> <p>1 Sano - rough draft</p> <p>2 You've never reviewed the FTC guidance before?</p> <p>3 A. I do not -- I don't recall that I</p> <p>4 have.</p> <p>5 Q. And do you recall seeing references to</p> <p>6 the FTC guidance in the expert reports that</p> <p>7 are -- have been submitted by Quincy?</p> <p>8 A. I believe there was references to the</p> <p>9 guidance.</p> <p>10 Q. And --</p> <p>11 A. In -- I would need a review to see</p> <p>12 exactly what was said there.</p> <p>13 Q. And after seeing references to the FTC</p> <p>14 guidance in Quincy's expert reports, you did not</p> <p>15 then go and review the FTC guidance?</p> <p>16 A. No, I did not.</p> <p>17 Q. So you're not offering an opinion</p> <p>18 today rebutting anything that Quincy's experts</p> <p>19 had said with respect to the FTC guidance?</p> <p>20 A. I don't believe I am. My -- my</p> <p>21 commentary is based on the work that I reviewed,</p> <p>22 the primary works that I reviewed.</p> <p>23 Q. And are you offering an opinion that</p> <p>24 the marketing claims for Prevagen comply with</p> <p>25 the FTC guidance?</p>
<p style="text-align: right;">Page 36</p> <p>1 Sano - rough draft</p> <p>2 A. I'm not making any statements about</p> <p>3 the marketing claims.</p> <p>4 Q. Are you aware that the FTC guidance</p> <p>5 has its own definition of "competent and</p> <p>6 reliable scientific evidence"?</p> <p>7 A. I'm not aware.</p> <p>8 Q. Is there any reason why you chose not</p> <p>9 to review the FTC guidance after seeing</p> <p>10 references to it in Quincy's experts' reports?</p> <p>11 A. It wasn't part of the work I was</p> <p>12 engaged to do.</p> <p>13 Q. And can you explain to me exactly what</p> <p>14 your assignment was in this case?</p> <p>15 A. It was --</p> <p>16 MR. GLENNON: Excuse me, sorry.</p> <p>17 Sorry, could you read -- I didn't hear the</p> <p>18 question. Could you please -- could the</p> <p>19 court reporter read it back, please.</p> <p>20 (The record was read back.)</p> <p>21 MR. GLENNON: Thank you.</p> <p>22 A. I believe it's as stated as in the</p> <p>23 report. I was reviewing the -- the material</p> <p>24 that was provided to me to determine if it was</p> <p>25 coming to conclusions that one would expect,</p>	<p style="text-align: right;">Page 37</p> <p>1 Sano - rough draft</p> <p>2 given the standards of how that data is</p> <p>3 collected.</p> <p>4 Q. And that standard is your definition</p> <p>5 of "competent and reliable scientific evidence";</p> <p>6 is that correct?</p> <p>7 MR. GLENNON: Objection.</p> <p>8 A. Yes. My standard is the standards of</p> <p>9 the material in the field -- of the expectations</p> <p>10 in the field.</p> <p>11 Q. Did you draft that phrase, "competent</p> <p>12 and reliable scientific evidence"? Did you come</p> <p>13 up with that phrase for your report?</p> <p>14 A. I believe I did. I edited -- I</p> <p>15 created the first version of the report, and I</p> <p>16 believe it was in there, but I'm not -- I'm not</p> <p>17 sure.</p> <p>18 It may have -- the words may have</p> <p>19 occurred separately. I don't remember the</p> <p>20 versions.</p> <p>21 Q. And -- but you said that you don't</p> <p>22 recall seeing that exact phrase prior to</p> <p>23 being -- working in this case. Is that correct?</p> <p>24 A. Can you ask the question again?</p> <p>25 Q. Sure. I believe you testified earlier</p>

<p style="text-align: right;">Page 258</p> <p>1 Sano - rough draft 2 MR. GLENNON: Objection. 3 A. What people know. Marketing claims. 4 Q. And you're not qualified to offer an 5 opinion on whether a marketing claim is 6 adequately substantiated. Is that correct? 7 MR. GLENNON: Objection. 8 A. I don't know about marketing claims. 9 I know about claims about cognition 10 and memory. 11 MS. METZINGER: I don't have any 12 further questions. Thank you for your 13 time, Dr. Sano. 14 THE VIDEOGRAPHER: Is that it? Anyone 15 else? 16 MR. DE LEEUW: Nothing for Mark 17 Underwood. 18 MR. GLENNON: Okay, this is Ed Glennon 19 for FTC. I would like to take a break. We 20 might have some clarifications questions 21 for -- or cross, rather. 22 THE VIDEOGRAPHER: Okay. 23 MR. GLENNON: Can we go off the 24 record. 25 THE VIDEOGRAPHER: The time is </p>	<p style="text-align: right;">Page 259</p> <p>1 Sano - rough draft 2 6:38 p.m. and we are going off the record. 3 (A recess was taken from 6:38 to 4 time .) 5 THE VIDEOGRAPHER: The time is 6 7:28 p.m. and we are back on the record. 7 EXAMINATION BY MR. GLENNON: 8 Q. Hi, Dr. Sano. 9 So, earlier, today, you were asked 10 about clinical meaningfulness with regard to the 11 Madison Memory Study. Do you remember that? 12 A. I do. 13 Q. Okay. 14 And paragraph 13 of your rebuttal 15 report, which is Exhibit 2, can I direct you to 16 that paragraph, please? 17 A. Okay. I'm there. 18 Q. Okay. 19 So, for the record, the first sentence 20 of that paragraph reads, finally with regard to 21 the results of the Madison Memory Study I see no 22 evidence that any purported improvements on the 23 cog state tasks would be clinically meaningful. 24 Do you see that statement? 25 A. I do.</p>
<p style="text-align: right;">Page 260</p> <p>1 Sano - rough draft 2 Q. Do you still agree with that statement 3 in your report? 4 A. I do. 5 Q. Okay. 6 A. Yes. 7 Q. Okay. And could you -- take a look at 8 the rest of that paragraph, there. 9 A. Uh-huh. Yes. 10 Q. Paragraph 13. Do you still stand by 11 the other statements made in paragraph 13? 12 A. I do. 13 Q. Okay. 14 Do you consider yourself to be an 15 expert in the field of memory? 16 A. Yes. I do. 17 Q. Okay. Did you consider standards in 18 that field of memory when opining on what 19 constitutes competent or reliability scientific 20 evidence in this case? 21 A. I did. Yes. 22 Q. Okay. 23 Do you consider yourself to be an 24 expert in the field of cognition? 25 A. Yes. </p>	<p style="text-align: right;">Page 261</p> <p>1 Sano - rough draft 2 Q. Did you consider standards in that 3 field when opining on what constitutes competent 4 and reliable scientific evidence, in this case? 5 A. Yes, I did. 6 MR. DE LEEUW: Objection to the form 7 of the question. W sorry. 8 Q. Okay. You can answer it Dr. Sano. 9 A. Yes, I did. 10 Q. Do you consider yourself to be an 11 expert in the field of cognitive impairment? 12 A. I do. Yes. 13 Q. Did you consider standards in that 14 field when appointing on what constitutes 15 competent and reliable scientific evidence, in 16 this case? 17 A. I did. 18 MR. DE LEEUW: Objection to form. 19 Q. What was your answer, Dr. Sano? 20 A. Yes, I did. 21 Q. Okay. 22 And do you -- yourself to be an expert 23 in the field of neuro psychology? 24 A. Yes, I do. 25 Q. And did you consider standards in that </p>

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1	Sano - rough draft	1	Sano - rough draft
2	field when opining on what constitutes competent	2	Q. Did you consider the protocol of the
3	and reliable scientific evidence, in this case?	3	Madison Memory Study in determining whether the
4	MR. DE LEEUW: Objection to the form	4	analyses of the AD8 zero to 1 and zero to 2 sub
5	of the question.	5	groups were post hoc?
6	A. Yes, I did.	6	MR. DE LEEUW: Objection to the form
7	Q. Okay.	7	of the question. Leading.
8	And do you consider yourself to be an	8	A. I did. Consider it. The protocol
9	experts notice field of neuroscience of aging	9	didn't mention them. And I considered them to
10	and dementia?	10	be after the protocol was developed.
11	A. Yes, I'm an expert in those areas.	11	Q. Have you stated in your report, that
12	Q. Okay. Did you consider standards in	12	the protocol does not refer to the subgroup
13	those feels when opining on what constitutes	13	analyses?
14	competent and reliable scientific evidence, in	14	MR. DE LEEUW: Object to the form.
15	this case?	15	A. I -- stated in the report that
16	MR. DE LEEUW: Object to the form of	16	there's -- that there was no description of
17	the question.	17	those subgroups in the protocol.
18	A. Yes, I did.	18	Q. Okay.
19	Q. Okay.	19	Okay. And I will refer you to the
20	Now, you've testified earlier today,	20	document that was marked earlier today as
21	also about the protocol, and standards, for	21	Exhibit 3.
22	standards in the field of clinical trials, for	22	Do you see that?
23	reporting elements of a protocol. Do you	23	Do you see it?
24	remember that?	24	A. I do see it, yes.
25	A. I do.	25	Q. Okay. And were you asked about
Page 264		Page 265	
1	Sano - rough draft	1	Sano - rough draft
2	whether you had seen that document, prior to	2	MR. GLENNON: Okay. I have no further
3	today?	3	questions.
4	A. Yes, I was asked that.	4	MS. METZINGER: We're going to have to
5	Q. Okay. A would you like to modify your	5	take another break. Can we take five
6	answer, that you gave previously?	6	minutes, please.
7	A. Yeah. Yes. Thank you. I --	7	THE VIDEOGRAPHER: The time is
8	MS. METZINGER: Objection. Hold on,	8	7:34 p.m., and we are going off the record.
9	Dr. Sano. I'm going to place an objection	9	(A recess was taken from 7:34 to
10	to that question.	10	7:39.)
11	THE WITNESS: I'm sorry.	11	THE VIDEOGRAPHER: The time is
12	Okay.	12	7:39 p.m. and we are back on the record.
13	A. I didn't hear what you said, it broke	13	EXAMINATION BY MS. METZINGER:
14	up. So where do we --	14	Q. Dr. Sano, did you speak with any other
15	MR. DE LEEUW: We were both note be	15	experts in the field of memory to determine
16	our objections.	16	whether they agree with the opinions set forth
17	A. Okay.	17	in your report?
18	Q. Have you seen that document prior to	18	A. Did not.
19	today?	19	Q. Did you speak with any other experts
20	A. I have not seen the whole document. I	20	in the field of cognition to determine whether
21	would clarify and say that I've seen a paragraph	21	they agreed with the opinions expressed in your
22	from the document.	22	reports?
23	Q. Okay. I have no --	23	A. I did not.
24	A. I -- I saw the paragraph, I did not	24	Q. Did you speak with any experts in the
25	receive the document.	25	field of cognitive impairment to determine

<p style="text-align: right;">Page 266</p> <p>1 Sano - rough draft 2 whether they agreed with the opinions expressed 3 in your reports? 4 A. I did not. 5 Q. Did you speak with any other experts 6 in the field of neuropsychology to determine 7 whether they agree with the opinions expressed 8 in your report? 9 A. I did not. 10 Q. Did you speak with any experts in the 11 field of neurosciences of aging and dementia, to 12 determine whether they agreed with the opinions 13 expressed in your report? 14 A. I did not. 15 Q. I would like to draw your attention 16 back to Exhibit 3, please. 17 A. To Exhibit 3, is that what you said? 18 DIR Q. Yes. 19 Which paragraph in this document have 20 you seen before today? 21 MR. GLENNON: I'll object. On the 22 basis of work product, and instruct the 23 witness not to answer that. 24 Q. Are you -- 25 MR. DE LEEUW: She assessed, just want</p>	<p style="text-align: right;">Page 267</p> <p>1 Sano - rough draft 2 to respond to the objection she testified 3 that she saw one paragraph. I think -- 4 we're then allowed to ask her which 5 paragraph that was. You can say that -- 6 you can certainly -- you know interpose an 7 objection about any discussion you had 8 about it but she specifically testified 9 that she reviewed a paragraph. And 10 therefore we're entitled to find out what 11 that was. 12 MR. GLENNON: I disagree. 13 Q. Dr. Sano when did you see this 14 unidentified paragraph from Exhibit 3? 15 A. Yesterday. 16 Q. Was that the first time that you saw 17 this -- this paragraph from the unidentified 18 Exhibit 3? 19 A. It is. 20 Q. And is that why it's not listed in 21 your report? 22 A. That's correct. 23 Q. Either your reports? 24 A. That's correct. 25 MR. GLENNON: Objection.</p>
<p style="text-align: right;">Page 268</p> <p>1 Sano - rough draft 2 Q. Did counsel remind you, over a break, 3 that he had shown you this paragraph yesterday 4 in preparation for today's deposition? 5 A. I don't recall whether or not counsel 6 reminded me or I recalled it as we were meeting. 7 Q. Did you have that recollection during 8 a conversation with counsel over the break? 9 A. Did I -- I did have the recollection. 10 Over the -- 11 Q. While you were speaking with counsel 12 over a break? 13 A. I did. 14 Q. Dr. Sano, did you see the unidentified 15 referenced paragraph, prior to submitting either 16 of your reports in this case? 17 A. Never. 18 MS. METZINGER: And Mr. Glennon, I 19 just wanted to confirm that you're 20 directing Dr. Sano not to identify which 21 paragraph of the dietary supplement 22 guidelines that she has reviewed prior to 23 today, are you instruct her not answer? 24 MR. GLENNON: Yes, I am. 25 MS. METZINGER: Okay. Then we're</p>	<p style="text-align: right;">Page 269</p> <p>1 Sano - rough draft 2 going to have to leave Dr. Sano's 3 deposition open because we're going to go 4 to seek a ruling from Judge Stanton on that 5 point. The despite of -- a fair amount of 6 this deposition today, has been based on 7 the fantastic that Dr. Sano testified that 8 she had never seen the FTC dietary 9 supplement guide prior to today's 10 deposition. And we're going to reserve the 11 right to question Dr. Sano about that 12 paragraph, and any other paragraphs from 13 the dietary supplement guidance that we see 14 fit. 15 A. So can I make a comment. 16 MR. GLENNON: Hold on. I understand 17 your position, Jaclyn, I disagree with it, 18 I don't believe you're entitled to keep the 19 deposition open. I think -- which 20 paragraph she reviewed, is -- which -- the 21 that we reviewed with her is privileged so 22 yes that's the basis of my instruction. 23 And I -- ask the witness not to -- 24 MS. METZINGER: I will disagree with 25 that, and I will remind you that during</p>